

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEELCASE INC., a Michigan
corporation,

Plaintiff,

Case No. 1:04CV0026

v.

Honorable Robert Holmes Bell
Chief, U.S. District Judge

HARBIN'S, INC., an Alabama
corporation, MICHAEL G. HARBIN,
and HOPE D. HARBIN PATTERSON,

Defendants.

/

**PLAINTIFF STEELCASE INC.'S MOTION TO STRIKE DEFENDANT
MICHAEL G. HARBIN'S AFFIRMATIVE DEFENSE**

Plaintiff, Steelcase Inc. ("Steelcase"), through its attorneys, Miller, Johnson, Snell & Cummiskey, P.L.C., moves to strike Affirmative Defense No. 5 of Defendant, Michael G. Harbin ("Michael Harbin"), under FED. R. CIV. P. 8(c), 12(f), and 15(a). This affirmative defense was not pled in Michael G. Harbin's first responsive pleading to plaintiff's First Amended Complaint or in any permissible amendment to that pleading. Instead, Michael Harbin asserts this defense, for the first time, without leave of Court, with his Answer to Steelcase's Second Amended Complaint. The Second Amended Complaint added a claim of piercing the corporate veil but did not raise any new issues on the Guaranty claims that would permit Michael Harbin to raise this affirmative response nearly two months after the extended deadline for amendments to

pleadings. These defenses are barred under FED. R. CIV. P. 8(c) and must be stricken from Michael Harbin's pleadings.

This motion is supported by the attached brief.

Pursuant to W.D. MICH. L. R. CIV. P. 7.1(d), on April 27, 2005, counsel for Steelcase sought and was denied concurrence from counsel for Michael Harbin.

Respectfully submitted,

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C.
Attorneys for Plaintiff, Steelcase Inc.

Dated: April 27, 2005

By /s/ Sara G. Lachman

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